



Lamoine Board of Selectmen

Minutes of November 29, 2007

Chairman Jo Cooper called the meeting to order at 7:02 PM

Present were: Selectmen S. Josephine Cooper, Richard Fennelly Jr., Chris Tadema-Wielandt, Cynthia Donaldson; Administrative Assistant Stu Marckoon, School Committee member Robert Pulver, Code Enforcement Officer Dennis Ford, School Union 92 Business Manager David Bridgham, School Committee Chair Faith Perkins, School Union 92 Superintendent Jim Boothby, and School Building Committee Member David Sanderson.

Agenda Review – Jo said she had an item to add under public matters. Chris requested that the Treasurer's Report be moved to the beginning of the agenda in the future.

Minutes of November 8, 2007 – Richard said he had language to add in the school lot discussion to clarify the restrictions on the deed from Johnson to the town. Cynthia said she had language to add to clarify the portable classroom maintenance discussion. Jo and Chris handed in written edits. Richard moved to approve the minutes with the changes. Jo 2nd. **Vote in favor was 4-0.**

Expenditure Warrant 11 – Chris asked about the negative number for Earned Income Credit. Stu explained that it has to be entered as a negative because it's added back to the recipient's check. Cynthia asked what the status was in the legal budget. Stu said the original budget was \$2,500 in the administrative account, and the only expenditures (\$372.50) are contained on the warrant. Selectmen signed the warrant for \$87,023.48. Chris asked about the date that appeared on the warrant placed in the packets. Stu said the date printed is as of the date of the printing which is automatically generated by the computer.

Cash & Budget Report – Cynthia asked why education is only at 28.5% of the expenditure budget nearly halfway through the year. David Bridgham explained that not a lot of tuition bills have been paid yet. Cynthia asked how much was in the Veterans Memorial fund. Jo said about \$1,600 has been raised thus far. Stu said he would generate a separate fund line for the project in future reports.

Dangerous Building Hearing

Jo opened the public hearing at 7:18 PM. Code Enforcement Officer Dennis Ford said that he received a complaint on September 18, 2007 regarding a building on Berry Cove Road that it was dilapidated and the roof was falling in. He said he visited the property and found that it was a camp which looks to have

been abandoned. He said a tree knocked part of the roof off. He said in his opinion it was beyond reclamation. He said Stu took pictures and generated the nuisance complaint which is why this hearing is taking place.

Stu said he spoke with the owner, Brian Young, earlier in the week. He said Mr. Young agreed with him that it is beyond repair, and he agreed to tear it down. He said Mr. Young asked about rebuilding in the same spot, and he advised Mr. Young to contact CEO Ford. Mr. Ford said he spoke with a contractor about the project this week and told him that the lot size (.51 acres) was grandfathered and if a new building meets the setbacks and could support a septic system, a new building could be constructed.

Stu reported he prepared the findings of fact and order giving Mr. Young 270 days to remove the structure. There being no further testimony, the hearing closed at 7:24 PM.

Stu read the draft of the findings and the order to remove. There was a discussion on what the proper number of days should be to remove the building. Selectmen asked to change the order to 180 days (approximately May 31, 2008) to complete the removal. The discussion included concerns about road conditions and mud in the spring.

School Consolidation – Site Visit – Stu thanked Richard for getting the pertinent deeds which were placed in the Selectmen's packets. Richard said he looked for iron pins on the highway side of the property, but he couldn't find them. He said they might be covered by the buildup of winter sand.

Consolidation Update – Cynthia handed out a written sheet to summarize where consolidation stands. She said the RPC (regional planning committee) met on November 12th and discussed two plans, including the RSU 7 plan. She said she had the printed slide show of that presentation. She said the other discussion was a Union 92 stand-alone plan.

Cynthia said the Maine Heritage Policy Center has published an article about Educational Service Districts (ESD) and briefly explained how they worked. She said one of the ideas discussed was that Union 92 and other parts of the proposed RSU (regional school unit) 7 could become their own RSU but share an educational service district with others. She said between the 2nd plan and the December 1st deadline, all kinds of things have happened.

Cynthia reported the Lamoine RPC met to think about how to prepare an informational sheet. She said on November 26th the Union 92 school committee met and voted to submit a tentative plan for the Union 92 towns to become an RSU. She said that plan was sent in earlier today. Cynthia reported the Union 96 towns voted 6-to-4 to join with SAD 37 and Jonesport/Beals in Washington County. She said CSD 8 (the Airline School) was meeting tonight and might join

the Union 92 RSU. She said the decision by the Union 92 representatives was unanimous and it was based on the costs of becoming an RSU with other communities as being too costly to bring back to the towns. She emphasized that it was NOT because there was any animosity between the school districts or towns. She said the Union 92 towns could not get past the extra cost.

School Committee Chair Faith Perkins said the ESD concept is a great idea, but the RPC did not have time to work it up. She said Ellsworth did not seem all that excited about it. She said the idea may come up before the Legislature. She said the Union 92 and RSU 7 group may continue to look at the idea.

Richard asked to what extent LD 1932 being proposed in the Legislature would affect the ability of the Union 92 schools to become an RSU. Superintendent Jim Boothby said the State Education Department (DOE) has said to hold on. He said the DOE has submitted a bill that talks about removing the 2-mill requirement and restoring special education money. He said the bill would also allow for a local funding formula to be developed to determine how the amount above EPS is calculated. He said the proposed bill does not mitigate all cost shifting, especially for teacher contracts. He said when the contracts from all units in the RSU are brought together, the negotiation process will start from scratch. He said the teacher unions with higher value contracts are unlikely to step backward from those. He said the cost calculations for the Union 92/RSU 7 configuration were built with the assumption of the higher teacher contract costs.

Richard said an article in the Bangor Daily News stated not a lot of RPCs were running into cost problems. Mr. Boothby said there are significant problems around the state.

Jo asked if Surry would remain a part of Union 92. Mr. Boothby said yes. Richard asked what would become of Franklin. Mr. Boothby said Franklin is part of Union 96 which is going east. Richard asked if there had been some resistance from the state to the Union 92 RSU because there was no high school in the union. Mr. Boothby said there is an existing agreement with MDI High School which meets the letter of the law. He said the new RSU would look to establish relationships with other schools. He noted that at one point before construction of the new Ellsworth High School the Union 92 towns were discussing building their own high school. Mr. Boothby said the DOE is not thinking along the same lines as the Union 92 folks.

Cynthia said school choice is still there. She said the contract with MDI High School means that we meet the law, not that every child in Union 92 would have to attend MDI High. Richard said the law talks about school choice, both public and private, and asked if that has always been the case. Mr. Boothby said yes, that Union 92 has always been quite progressive. Cynthia said it's kind of like a voucher system. Mr. Boothby said all the Union 92 towns share the same values about school choice. Richard said he understood that school choice was a

bargaining chip for legislators. Chris asked that if Union 92 is progressive and efficient, was the rest of the state in such disarray that the DOE has thrown a blanket over the problem that will make Union 92 like everyone else. Mr. Boothby said the objective behind the law is cost savings. He said the question was whether the savings were for everyone, or just for state government. He said the other objective was to reduce the number of school districts. He said the state has to generate separate reports for each School Administrative Unit (SAU) and fewer SAUs means a reduced state work load. He said there is some efficiency on the local level. Richard said it looks like costs are shifting from the state to the towns. Mr. Bridgham said the state has been pushing their work onto the local units, and when districts are too small, it's difficult to have the staff needed to generate the data the state requires. A short discussion followed.

Mr. Boothby said there are a number of reasons behind the consolidation legislation. Richard said he was happy with the proposal that the Union 92 towns become their own RSU. Jo said to stay tuned. Mr. Boothby said the RPS has done great work. He said if the state had to pay for all the volunteer hours, the cost would be astonishing.

School Building Renovation – Ms. Perkins said the building committee met last Monday. Mr. Bridgham handed out the amended eligibility certificate. He said the project required the school to apply for additional funds, and the state approved that. He showed the debt service schedule and the cost breakdown of the projects. He said the deal is the same as was approved last winter – 30% is forgiven and the remaining 70% would be paid back interest free. He said approval is needed for an amended bond. He said the Selectmen must call a referendum to do that, and absentee ballots must be available at least 45-days ahead of the vote. He said January 22, 2008 would work if the Selectmen sign a special town meeting warrant next week. A discussion followed on the possible date for the town meeting referendum vote.

Cynthia said she was concerned about the perception that this is being rushed to the voters. Mr. Bridgham said the new deadline to complete the project is December 31, 2008. Cynthia asked how soon bid documents should be ready if the project is to start after school closes in June. Mr. Bridgham said if the voters approve, applications are needed by February 1 for the Bond Bank, they make the commitment on April 1, and the money is available June 1. He said design and bid specs are needed by April 15 and bids should be opened by May 31. He said it's a very tight time frame for a contractor.

Richard asked if the engineering work is completed. Mr. Bridgham said it is not because the formal design takes money, and they didn't want to do it until the money is approved. Cynthia asked if the design is included in the cost estimate. Mr. Bridgham said it was. David Sanderson of the building committee said the design work is expected to cost about \$75,000. Mr. Bridgham said with

construction oversight the cost is \$80,000. Mr. Sanderson said moving now to get the design work done could put \$80,000 at risk.

Mr. Bridgham said the Selectmen need to decide when to hold the referendum, and whether to authorize the superintendent to authorize a contract for engineering and design. Richard asked to what degree there is a concern that the cost to do the work will change again. Mr. Sanderson said the Bureau of General Services came up with the cost estimates, using the proper computer program this time. He said a contingency is built in.

Ms. Perkins said the \$650,000 approved last January by voters had a 10% design fee (\$65,000) built in. He said the risk if the new project is not approved is only \$10,000 to \$15,000. Mr. Boothby said the roof is the top priority.

Jo said she didn't want the project derailed because of public perception of a rush. Mr. Bridgham said it's a bit like déjà vu because of the timing. Cynthia said she feared it would be like crying wolf. She asked if the school committee can be very clear that our knees were knocked out from under us by the state's software problem. Mr. Bridgham explained why the previous design information failed. He said the flaw in the software did not account for demolition and that the plumbing would be entirely replaced. He said this is a long term solution for the building.

Chris asked if the roof situation is serious enough that it should be shoveled. Mr. Bridgham explained that it is now a hot roof, but once it's insulated snow would be left on the roof. He said the building materials of 1974 were not taken into account, and the trusses then are much stronger than today's trusses. Chris said it was important to note the things just mentioned. He said he was angry about the state's software problem.

Jo said the big issue is when to hold the referendum. She said the town has to be expeditious but should not rush. She said the earliest date could be January 22, 2008. She said there would need to be public hearings. Mr. Sanderson said they recommended a hearing on January 7, 2008. He said the fact that the earlier approval included some design fees puts much less money at risk. He said the project gains 2-months by getting the design done sooner.

Mr. Bridgham said they do have a draft contract for an architect. Mr. Sanderson said he understands the concern about speed. He said there is a good possibility this would be voted down. He asked what happens differently if this is put off by a month. Richard said last year the talk was that there would be two public hearings and there was only one due to a time crunch. He said he got lots of feedback asking what the town was hiding. He said that based on last year's experience the town should not advertise something it doesn't carry out. Jo noted this has been discussed with the budget committee. A short discussion followed. She said this should be discussed again with the budget committee to

hear what they have to say. She said this needs to be as open as possible, and she was not sure that adding a month to the process would make any difference. There was a short discussion about holding a forum vs. a formal hearing.

After a lengthy discussion about the possible dates, the Selectmen agreed that the referendum would be held on January 29, 2008, the first public hearing required statutorily would be on January 7, 2008, and a 2nd public hearing would be held on January 22, 2008.

Mr. Bridgham said the final issue is the risk of having the architects start work ASAP or to wait. He said he gets the feeling that the risk of money on the table now is less harmful. Stu asked if this is a school committee decision. Mr. Bridgham said he wanted the feedback from the Selectmen. There was no objection from the Selectmen about getting the architect going now.

Richard moved to set the election and public hearing dates as stated above. Jo 2nd. **Vote in favor was 4-0.** There was a short discussion about publicity. A mailing was discussed. Dennis Ford suggested a daytime hearing because people don't want to come out at night.

Bradford Auto – Jo noted that Margaret DeLuca expressed concern about time at the previous meeting. Stu said he did not mail an agenda to Ms. DeLuca or Mr. Bradford. Cynthia said she would like to see a time limit on the discussion, and it was agreed discussion should end by 8:45 PM.

Cynthia said what struck her was the discussion in the 1995 Planning Board meeting that the setback from the edge of the right-of-way should be 50-feet. Richard said there seems to be a history of confusion on a host of things. He said Ms. DeLuca did not recall receiving any written notice of the Planning Board's 100-foot setback. A short discussion followed regarding an issued permit card vs. a processed application. Richard said he thinks Ms. DeLuca was sincere when she said she didn't receive the notification.

Jo asked about the process. She asked if it would be unusual for a person to come to the Planning Board and the Board finds the application complete, then not to show up for the final approval. She said she didn't think the approved permit with the condition was the issue because the permit was present in the town hall. CEO Ford said the permittee generally gets the blue building permit placard. Richard said the report prepared by Stu indicated that neither Ms. DeLuca nor Mr. Bradford were present at the final approval step when the condition was added. He said he could see the possibility of a mis-communication. Jo said there was not a mis-communication, there was no communication and it should be up to the applicant to find out about conditions. She asked if there was a step missing. Mr. Ford said normally a condition would be written somewhere on the permit placard. He showed a copy of a building permit card.

Jo asked whether Mr. Bradford and Ms. DeLuca thought they were doing things properly but the town did not communicate the condition about the vehicle setback limit to them. He said both sides may be equally to blame, and that Mr. Bradford and Ms. DeLuca should have been at the Planning Board meeting when the condition was imposed. Richard said he was not aware that the processed application was the actual building permit – he thought it was the blue card.

Chris noted that Ms. DeLuca's argument was that they'd been selling cars since 1986 and they did not know they had to be 100-feet back. He said the minutes of July 1995 indicated that a used car lot was not planned, so Mr. Bradford and Ms. DeLuca had no reason to be concerned when the Planning Board imposed the setback condition. Richard asked if there was any standard setback for that type of business. Stu said there was not. Jo said it would appear to be arbitrary if there is no standard. Richard said a standard should be addressed, possibly as an ordinance revision by the Planning Board.

Jo said she was surprised how many times there have been discussions on the matter. She said she recalled the discussions when the facility was licensed as a junkyard. She said she was surprised by how many cars there were for sale on the lot, and read from the prepared report. She said the only question now, in her mind, is the impact on the stream between Ms. DeLuca's property and the horse pasture to the east as there is a vehicle parked very close to the stream. She said the standard in the ordinance appears to be very vague. She said it's time to come to a consent agreement. She said the cars have been moved back from the center line. Stu reported that the cars were parked 40-feet from the center line when he checked the previous day. He said that put them 25-feet from the edge of the pavement. Jo said the setback looks OK as you drive along, but she's concerned about the vehicle parked by the stream.

Richard said he thinks the property boundary for Ms. Deluca is the stream. Mr. Ford said he thinks there is an existing roadway beside the creak. Jo said she wants to come to an agreement, and get a legal opinion that all parties can agree with. Mr. Ford said to have a dealer license, they must have 5,000 square feet of display area. He said part of a consent agreement should be a determination of where the 5,000 square foot display area is, and set the boundaries for such.

Cynthia asked if the Board reaches an agreement, would it apply to other similar businesses. Richard said if the Selectmen reach an agreement, the Planning Board should be on board with what is agreed to, and suggest language to be worked into the ordinance. Jo said the Selectmen cannot presume to set the standard for the entire town. She said no matter what new ordinance comes along, this property would be grandfathered. Chris said the agreement would apply to this business only. Jo said if the Board wants to propose a 40-foot setback from the center line, that would be OK with her. Richard said 40-feet

was OK with him. CEO Ford said the perimeter of the display area should be set off with posts, and that could include a sideline setback toward the stream.

Jo said the next step would be to draft an agreement to run by the town attorney and Mr. Bradford/Ms. DeLuca, and bring it back to the next meeting. She said she would like to see if there is a historic survey of the road. A discussion followed on how far the setback ought to be. Stu said from the discussion just held, he believed it ought to start with a 50-foot setback from the center of the road. Chris said he didn't agree with that, but there is no right way to do it. He said the planning board said 100-feet. He suggested a 50-foot setback from the right-of-way, which would give an 80-foot setback from the center of the road. Richard said the cars are presently where they've been set back for a long time. A short discussion followed regarding the present display. Richard said if an agreement is reached on a 50-foot setback from the center of the road, that is 10-feet further back than where the cars are presently placed. He said if they go 50-feet from the right-of-way, 80+ feet back from the center is a long way. Jo said she didn't see the point of such a long setback.

Jo said the communication on both ends was not very good. She asked what the Board was trying to do. She said there is no clear standard for an auto dealer, and the permit issued by the Planning Board was for a building. She said this could end up in a big legal battle that is not necessary and not an effective use of time. She said she wants the car display to be safe and she wants there to be a written standard so that if there is a violation, it can be enforced. She said her biggest concern is the vehicle near the stream. She said she wants the property to be safe for the public and not obtrusive to the neighbors. She said part of a used car dealer's business is visibility of the vehicles. She said she did understand about the 100-foot standard in the Planning Board approval.

Chris said the Selectmen have been asked by the Planning Board to enforce its 100-foot setback. Jo said the Selectmen have looked at the complaint, and will come to an agreement. She said there ought to be planning board input. She said if the Planning Board is adamant about the need to be a 100-foot setback that might put things back to the drawing board.

Richard said he believes that Ms. DeLuca did not see the condition when it was imposed, and there are some extenuating circumstances. He said the Selectmen could take a hard line or could resolve it in a fair way. He said for that to happen, both parties will have to compromise. Jo said she drove by several times and the only thing that stood out to her was the concern about the car near the stream. She re-stated that as long as the cars are displayed safely she would be satisfied.

Chris said if Stu could get something drafted he would be happy to review it before sending it to the Town Attorney for review. He suggested the draft be

communicated to the planning board. He also said the compilation of materials was a job well done.

Audit – Stu said he was impressed with the questions the Selectmen had for the auditor and with the presentation given. Richard said he got a lot out of the session. Jo said she did as well.

Richard moved to sign the management representation letter. Jo 2nd. **Vote in favor was 4-0**, Jo and Chris signed the letter.

Cemetery Funds – Stu said surrendering the cemetery trust funds to the cemetery corporation appears to be far more complex than a town meeting vote. Jo said she is inclined to let the cemetery corporation pursue the legal aspects if they wish. She asked what was in it for the cemetery corporation. Chris said he didn't think it was such a big deal to go to probate court. Stu said he would write to the Forest Hill Cemetery Corporation and give them a copy of the message from MMA and he understands the ball is now in the court of the cemetery corporation.

MRC Representative – After a brief discussion, Jo moved to cast Lamoine's vote for Henry Chausse. Chris 2nd. **Vote in favor was 4-0**.

Commendations – Selectmen present signed commendations for the Lamoine Consolidated School Soccer Team for its Union 92 championship, Alex Emeigh for being named to the State's All-Star High School soccer team, Jennifer Richter for being named to the State's All-Star High School soccer team, and Sarah Marckoon for being named to the State's All-Star and All Academic High School Volleyball teams.

Government Mutual Aid- Stu explained that the MDI League of Towns has been working to develop an agreement where one town could cover for others should a disaster such as the pandemic flu hit so that basic government functions could continue. Selectmen asked that it be placed on a future agenda.

Time Warner Rate Increase – Stu noted that the letter from Time Warner was in the Selectmen's packet.

Regional Assessing – Stu said the MDI League of Towns was inquiring whether there was any interest in some regional assessing activity and that he gave the same memo that was in the Selectmen's packet to the Board of Assessors for their perusal.

Hazard Mitigation Grant – Stu asked if the Selectmen were interested in trying to get such a grant for the area that perennially floods on Needles Eye Road. Chris asked if that would preclude any other FEMA grants. Stu said it shouldn't. Mr. Ford said the program is a disaster grant and is a one time deal, and there is

money available, and the time period for application has been extended. Chris said the town should try for it. Cynthia asked that Dennis and Stu work together on it.

Cellular Phone Tower Lease- Stu said Verizon had sent the latest proposed lease the day before and he reviewed it in the context of the proposed changes the town had suggested. He said Verizon did not incorporate a provision that additional sub-leases include 3% of the revenue for the town and asked that the start date be 12-months from the time of approval of permits instead of 7-months. He said he would recommend approving the lease, and formalizing that approval at the next meeting. Chris so moved, Cynthia 2nd. **Vote in favor was 4-0.**

Conservation Commission Appointments- Jo moved to appoint Nancy Pochan and Annie Crisafulli to the Conservation Commission as alternates until June 30, 2010. Chris 2nd. **Vote in favor was 4-0, appointment papers were signed.**

Veterans' Memorial – Jo said the committee is concerned that it needs to raise about \$10,000 more by spring. She said they met last night and discussed ways to do that. She said the word is getting out on the bricks. Stu said that would be going out in the school newsletter tomorrow.

Jo said they're looking for additional foundation support and to get the school involved in the fundraising. She said a man from Tremont who was involved in their project has offered his help. She said the committee was concerned about the short time frame and asked if a brick form could be enclosed in the next Lamoine Quarterly. Stu said he was planning to do that.

Cynthia suggested a fund raiser involving selling baked beans and rolls on a Saturday night. Jo said they have a deadline of raising \$10,000 by April with a dedication on Memorial Day. Chris asked if any existing veterans' organizations have grants available. Jo said the American Legion and the Cole Foundation are two possibilities.

Portable Classroom Repairs – Richard said he had the bill for the materials to repair the portable classrooms. Stu said it should probably be submitted to the school department and he could take it to them.

Next Meetings – Jo noted she would not be available at the December 13th meeting.

School Property Site Visit – After considerable discussion, Selectmen set the site visit for the school lot for 9AM on Sunday, December 2, 2007

Regular Meetings – The Veterans Committee wanted to meet on Thursday, January 3, 2008. Selectmen set their meetings as follows:

January 10, 2008
January 24, 2008
February 7, 2008
February 21, 2008

There was a brief recess while Stu reformatted the Findings and Order on the dangerous building issue. After that was done, Selectmen signed the document.

There being no further business, the meeting adjourned at 9:47 PM

Respectfully submitted,

Stu Marckoon, Adm. Asst.